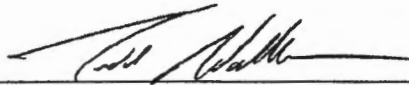
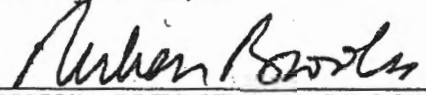


REQUEST FOR SEALING

77. Since this investigation is continuing, disclosure of the search warrant, this affidavit, and/or this application and the attachments thereto will jeopardize the progress of the investigation. Disclosure of the search warrant at this time would seriously jeopardize the investigation; as such a disclosure would give the subscriber an opportunity to destroy evidence, change patterns of behavior, notify confederates, or flee or continue his flight from prosecution. Accordingly, I request that the Court issue an order that the search warrant, this affidavit in support of application for search warrant, the application for search warrant, and all attachments thereto be filed under seal until further order of this Court.

  
Todd Walbridge, Special Agent  
Federal Bureau of Investigation

Sworn to before me this  
15th day of June, 2007:

  
HONORABLE RUBEN B. BROOKS  
UNITED STATES MAGISTRATE JUDGE

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 06/19/2007

On June 18, 2007 a search warrant was served at the residence of SHAWN DEAN HOGAN, 8465 Regents Road, Apartment 448, San Diego, California.

At approximately 7:03 a.m. agents from the FBI knocked and announced their presence and purpose. After waiting approximately 20 seconds, agents opened the door using a key supplied by an apartment maintenance worker. HOGAN was on the couch in the living room when agents entered the residence. At approximately 7:07 a.m., agents had completed a law enforcement clear to locate all persons within the residence. HOGAN was the only individual present at the residence when the agent arrived.

At approximately 7:07 a.m., agents unplugged the router connecting HOGAN's computers to the Internet.

At approximately 7:15 a.m., HOGAN was provided with a copy of the search warrant along with attachments A and B.

The apartment was photographed by Special Agent (SA) Nathaniel Dingle prior to beginning the search.

At approximately 8:21 a.m., SA Daniel Evans and SA Stephen Olsen departed the residence.

At approximately 8:24 a.m., SA Travis Johnson arrived with additional materials for use in the search. SA Johnson departed the residence at approximately 8:28 a.m.

Present during the execution of the Search Warrant were the following agents from the FBI:

SA Todd Walbridge  
SA Nathaniel Dingle  
SA Michael Shanahan  
SA Stephen Olsen  
SA Kristen Robinson  
SA Melanie Adams  
SA Daniel Evans  
SA Brian Nielsen  
SA Travis Johnson (as described above)



Investigation on 06/18/2007 at San Diego, CA

File # [REDACTED] Date dictated [REDACTED]  
by SA TODD WALBRIDGE/ [initials], SA MICHAEL G. SHANAHAN, SA NATHANIEL DINGLE, SA MELANIE ADAMS, SA Travis F. Johnson, SA DANIEL P. EVANS, SA BRIAN C. NIELSEN, SA STEPHEN P. OLSEN, SA KRISTEN M. ROBINSON [initials]

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USA00500

Continuation of FD-302 of \_\_\_\_\_, On 06/18/2007, Page 2

At approximately 10:00 a.m., agents departed the residence while HOGAN was present. Prior to departing, HOGAN was provided with four FD-597, Receipt for Property forms, documenting the items seized during the execution of the search warrant.

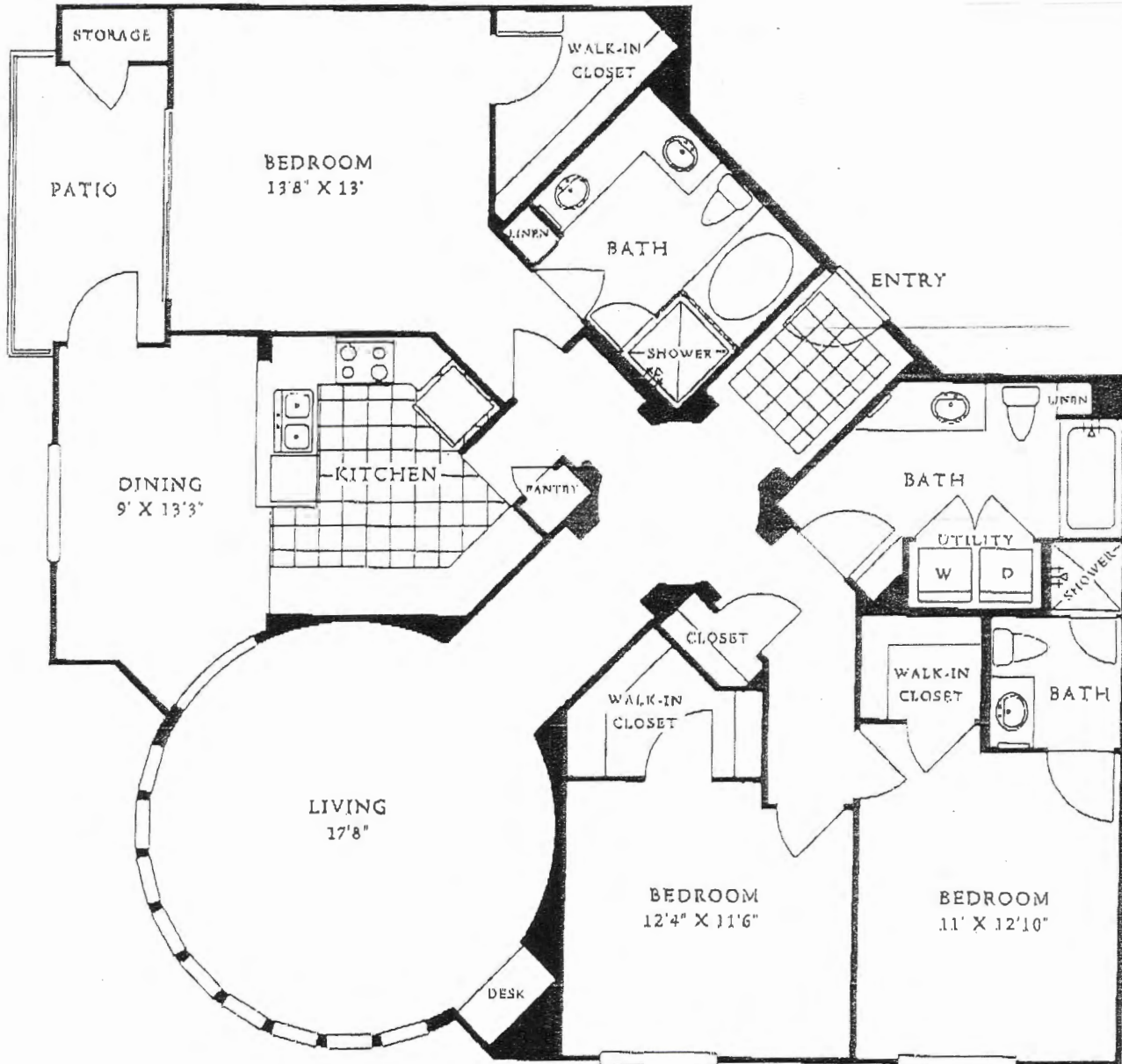
HOGAN also provided verbal and written consent to search his vehicle, a 2007 Hummer H2, California license plate 8E18752. At approximately 10:02 a.m., agents began searching HOGAN's vehicle. At approximately 10:10 a.m., agents completed the search of his vehicle and departed the apartment complex.

The key used to unlock the door was turned over the apartment management prior to leaving the property.

Att  
Matt

# REGENTS COURT

#448



C1

Three Bedroom / Three Bath, 1,694 square feet  
Square footage is approximate - Amenities subject to change



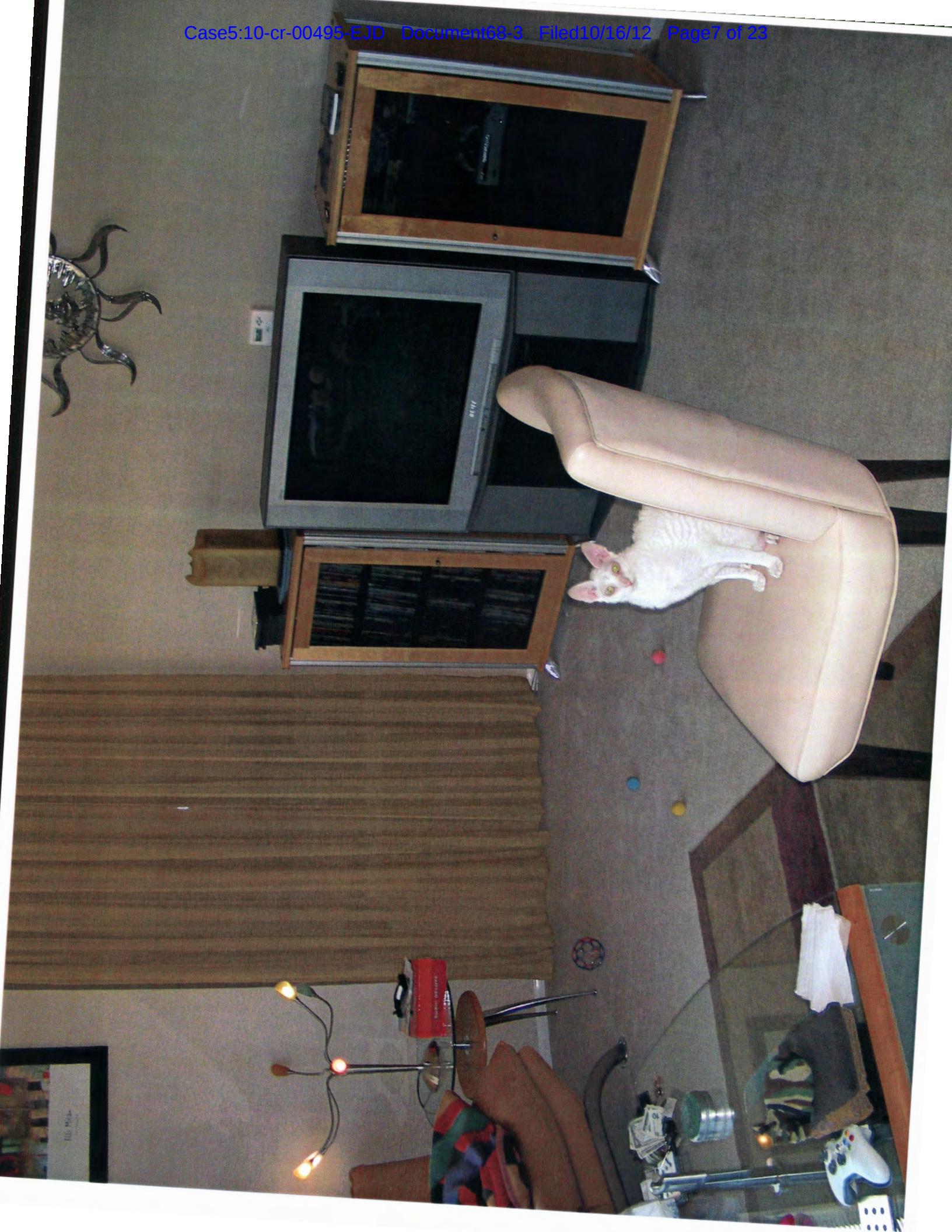


















GOVERNMENT  
EXHIBIT  
PENGAD-Beynon, N. J.





GOVERNMENT  
EXHIBIT  
9  
PENGAD-Bayonne, N. J.









Digital Point Solutions  
Deposit Only  
24641-08914

RE-INK WITH IDEAL INK ONLY



- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 06/19/2007

On June 18, 2007, SHAWN DEAN HOGAN, born [REDACTED] 1975, social security account number [REDACTED], cellular telephone 619-723-1589 was interviewed at his residence 8465 Regents Road, Apartment 448, San Diego, California. The interview took place in conjunction with a federal search warrant being executed at the residence. HOGAN was provided with a copy of the search warrant and advised that he was not under arrest or being detained in any way. SA Adams explained to HOGAN that she would like to interview him but that he was not obligated to participate. After being advised of the identities of the interviewing agents, provided a copy of the search warrant being executed at his residence and being advised of the nature of the investigation, HOGAN provided the following information:

He has resided at this location about four years. He is self-employed. He owns and operates a business named DIGITAL POINT SOLUTIONS which he has had for ten years. HOGAN advised his company is in the business of software development and in particular accounting software development. He sells software named OPTI GOLD ISP for \$2,000 to \$250,000 depending on the number of clients. HOGAN does not have any employees and his business is based from his home. He remotely accessed the servers he owns which are located in downtown San Diego at SimpleNet. He indicated he employs a personal assistant to help with personal chores not related to his business.

HOGAN advised that OPTI GOLD is purchased mostly by web-hosting companies to do accounting for their business. He came up with the idea when his own ISP could not bill him properly for his services. He said sales have decreased in the last year but he makes a couple hundred thousand to one million dollars a year in sales of this product.

As far as other income, HOGAN indicated he has income money from GOOGLE ads and other affiliate programs such as EBAY, WESTERN UNION, and EHARMONY. He advised he earns about \$10,000 to \$15,000 per month for GOOGLE ads, \$1.1 to \$1.5 million per month on EBAY, and approximately \$8,000 to \$10,000 per month for WESTERN UNION. HOGAN stated the money from these affiliates programs has made him lazy on his other stuff.

Investigation on 06/18/2007 at San Diego, California

File #

SA Melanie Adams:ma

Date dictated NA

by

SA Todd Walbridge

GOVERNMENT  
EXHIBIT

7

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USA00502



Continuation of FD-302 of

SHAWN DEAN HOGAN

On 06/18/2007

Page 2

HOGAN indicated he really got into Internet marketing and driving traffic. His main website is www.digitalpoint.com which he designed to be a site where people from the marketing community can interact. He advised his network includes a couple of thousand websites. His goal was to get people within the marketing community to join a network for free. The purpose of the forum is to provide a community user forum where users can interact. HOGAN stated he has written several tools which he provides for free on his website www.digitalpoint.com, such as "keyword tracker," and "co-op" ad network. He initially created these tools for his own use but when friends and others heard about his tools, he decided to post them on his website to share across the ad network. He admitted that some of the tools he developed he programmed because other users had given him the idea or wanted modifications to one of his tools.

HOGAN advised he is a proficient programmer who is knowledgeable in Filemaker, PHP and MYSQL, to name a few. He indicated that he does not obtain any advantage for offering his tools free but was able to get more GOOGLE traffic because of the way his ad network is linked. Mostly, he said he created the tools for his own use, such as "keyword trafficker." He said all of his ideas for modifications came from others' suggestions or input.

When asked if he knew why the FBI would be serving a search warrant at his residence, he nodded his head affirmatively. HOGAN acknowledged that some of his traffic was not legitimate depending on how one defined legitimate. HOGAN stated that he drives all of his traffic using the Ad Network. The Ad Network is a conglomerate of a couple of thousand sites. HOGAN advised that a lot of the members are "spammers" who have a "gazillion" pages of content which makes the search engines see the content as pages and then places higher rank to those sites.

HOGAN admitted that what he was doing regarding the 1x1 pixel was not legitimate. He said the 1x1 pixel called back to his own server at www.digitalpoint.com and then his server pulled down a text file of the eBay homepage which forced a cookie with his affiliate ID. Agents described the process as they believed it occurred, the 1x1 pixel called back to his server and from his server requested a text file of the eBay homepage that resulted in a cookie with his affiliate PID being placed on that person's internet history. HOGAN stated that is "exactly it" and "right." He said his ad network system is cast very wide and he can make some educated guesses on who will buy from eBay. HOGAN advised the



Continuation of FD-302 of SHAWN DEAN HOGAN, On 06/18/2007, Page 3

script is automated. The script does look at browser history of the user, for instance, to determine if the user has been on commerce sites.

HOGAN admitted that the 1x1 pixel script starts up the process and that the 1x1 pixel is downloaded as part of the co-op ad network tool. He advised that the 1x1 pixel script looks at all sorts of criteria. For instance, the script looks at the IP to see if the IP address already accessed the site, and the script looks at user agents and HTTP version headers. HOGAN said originally the pixel was created to track ad impressions and was designed for normal ad purposes. The pixel sent a tag back to the server for tracking the ad network. Later, he improvised the pixel so that after execution the 1x1 pixel would redirect to www.ads.digitalpoint.com and it would pull up the script that would redirect to eBay rover based on its logic, the user agent, country etc.. As a result, it would request a text page of the eBay homepage. This was in order to take up limited bandwidth. Then, the eBay cookie would be set with HOGAN's information and be sent back to the initial user. HOGAN said this was cleaner and efficient. HOGAN admitted he knew that the user was not really being re-directed to eBay, but he also knew that this is what every Internet marketer did or tried to do.

HOGAN advised that his 1x1 pixel tool got out of control and too big. He stated he did not intend for it to get this big. He stated he tried to put the brakes on its use at the end of 2006, but eBay contacted him and wanted to know where all of his traffic was and what he had changed. He said he contacted CHRISTINE KIM at eBay and had conversations with her about not wanting to participate in the eBay affiliate program anymore, and particularly within the last few months he has had similar conversations. He knew what he was doing was not right and it was not about the money for him. He wanted to go down about 10% every month and he could re-direct the 1x1 pixel at his end (server end) and try to dial it down. HOGAN advised that eBay pressured him to keep his traffic coming so he ended up turning it back up again. HOGAN believed, based on looking at his numbers and tracking information, that about 5% of his eBay traffic is legitimate. He has not looked at the numbers report recently. He advised he knows he was forcing traffic.

When asked what he would call this 1x1 pixel tool, he said he did not know if there was anything out there like it since he did not really think it was cookie-stuffing, nor was it a



Continuation of FD-302 of

SHAWN DEAN HOGAN

, On 06/18/2007

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cloaking re-direct. He felt he created something new, maybe a "cookie redirect." He did not know what to call what he was doing to make it look like he directed the traffic to eBay.

HOGAN felt that about 98% of all internet marketers were participating in grey or non-legitimate areas but that they were just not as good as him. He felt that because he was a very good programmer and an "idea man" and he had the resources to implement his ideas, he was successful. He indicated that some Internet marketers lack the user base and in his case he has the eyes and ears of every Internet marketer out there through his ad network. Likewise, some marketers have the ideas but are not programmers so they have to explain their ideas to someone else to program which is not as successful as being able to program the idea yourself.

Agents asked HOGAN if he had seen the questions on his own forum at [www.forum/digitalpoint.com](http://www.forum/digitalpoint.com) March 29 through June 7, 2007, regarding whether or not he was forcing cookies with his affiliate through his co-op ad. HOGAN advised that he was horrible about reading e-mail, checking his own forum, or even voice mail on his telephone. He advised he was best reachable by his cellular telephone. He said he received a private message about the matter and saw the forum thread a few days.

HOGAN stated that none of this was about the money for him. For him, this was about the intellectual challenge, being first at developing a tool. In Internet marketing, it was about finding out a way to have his site ranked high by the search engines. He admitted that he definitely was involved in some grey areas. He stated that he wanted to back out of doing the eBay fraudulent activity but was just not able to back out gracefully.

He indicated that about three and one half years ago, eBay allowed more grey area activity but he was not really driving a lot of eBay traffic then. Two years ago he really started to drive eBay traffic and he thought about nine months ago he was driving mostly this "grey" non-legitimate traffic. He advised he always was involved in the eBay affiliate program through Commission Junction but did not really work with Commission Junction people. He always worked with people directly at eBay except for when CHRISTINE KIM was his account manager at Commission Junction about two years ago.

When asked if he knew of anyone else in the eBay affiliate program doing something similar, HOGAN hesitated to



Continuation of FD-302 of

SHAWN DEAN HOGAN

, On 06/18/2007

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[REDACTED]

answer. When agents asked him about BRIAN DUNNING, HOGAN stated "You should be at his home more than mine." Agents showed a California Department of Motor Vehicles photograph of BRIAN DUNNING which HOGAN identified as BRIAN DUNNING. HOGAN said he has been an acquaintance of B. DUNNING for about ten years. He met B. DUNNING through FILEMAKER development. HOGAN said he started doing Internet marketing about four years ago, about two months after he created his keyword tracker tool. HOGAN advised that shortly thereafter, B. DUNNING also got into Internet marketing. He last saw B. DUNNING about two months ago.

HOGAN advised that B. DUNNING started to rip off some of his tools, such as "geovisitors." He indicated that B. DUNNING would reverse engineer his (HOGAN's) tools.

He knew that TODD DUNNING, the brother of B. DUNNING had contacted eBay and told eBay that he was doing some stuff that he was not doing and that T. DUNNING embellished the story. HOGAN said he had heard about this via hearsay from B. DUNNING and others who were calling to give him a "heads up" that eBay was doing an internal investigation. HOGAN said he did not even know that B. DUNNING had a brother before that. HOGAN could not recall the exact date this occurred but believed it was last year.

HOGAN indicated at the time, B. DUNNING tried to smooth things over with him. B. Dunning knew what he was doing with the 1x1 pixel and wanted to talk to him about it, but he wanted nothing to do with B. DUNNING. HOGAN thought that B. DUNNING had figured it out by reverse engineering HOGAN's tool. He never confirmed anything to B. DUNNING even though B. DUNNING tried to talk to him about the 1x1 pixel. HOGAN believed B. DUNNING and T. DUNNING were doing something similar based on what B. DUNNING told him, but he did not know for sure and did not want to know for sure. HOGAN said he never confirmed anything for B. DUNNING. B. DUNNING continued to reach out to him. A few months later, B. DUNNING came down to visit HOGAN and basically spelled it out for him. B. DUNNING told him that it was in HOGAN's interest to keep them (the DUNNINGs) out of trouble and that if they got caught, they would make sure HOGAN would be in trouble too. HOGAN said they knew too much and he did not trust them. HOGAN stated he felt blackmailed. He said he wanted nothing to do with BRIAN or TODD DUNNING but he also felt "attached" to them because of this situation, so he agreed to provide a copy of his script to B. DUNNING when B. DUNNING came down to visit. He said he might have renamed the script but could not recall for sure. He copied it to B. DUNNING's



Continuation of FD-302 of SHAWN DEAN HOGAN, On 06/18/2007, Page 6

laptop. He does not know for sure what B. DUNNING did with his script that he gave him. He assumed that B. DUNNING used it.

HOGAN advised he has only seen B. DUNNING seven to eight times in person and that they talk, but are not that close. He has never had any conversations with TODD DUNNING nor did he know about T. DUNNING before the incident of him calling eBay. Since that incident, he has had a few conversations with B. DUNNING and has given him some help on stuff he ripped off from HOGAN, including the script for the 1x1 pixel. He wanted to keep the DUNNINGs at an arm's length. He believed that they definitely know about the 1x1 pixel and are using it. He indicated that in November 2005 he created "geovisitors" to track IP addresses geographically and shortly thereafter B. DUNNING created his tool "profilemaps" about 6 months later which is really HOGAN's geovisitors tool that B. DUNNING reverse engineered.

He believed that B. DUNNING is married and has two kids and that T. DUNNING is B. DUNNING's brother and may have a wife and kids. He thought B. DUNNING resided in the Los Angeles area, possibly in Orange County north of Oceanside.

HOGAN advised that about three to three and one half years ago, eBay's Affiliate Program had terms which allowed cookies, spyware, the use of a virus and anything to redirect competitors' traffic to eBay. He said that eBay would help people install spyware, etc. This was before his numbers were huge. Then eBay changed its policies to prohibit the use of these techniques. He felt that people at eBay knew affiliates, including him, were involved in fraudulent activities but they let it go. He did not believe that CHRISTINE KIM at eBay knew about the fraud. He felt that at least 70% of the top 100 eBay affiliates were involved in using techniques to drive eBay traffic that are grey. He said he has questioned employees at the eBay's Affiliate Program numerous times about why they have an affiliate program at all. At one point, he was told because affiliates can do things that eBay as a corporate public entity could not do. For instance, affiliates could do search engine manipulations but eBay could not. It would not look right in the public eye, nor from the perspective of other corporate entities, if eBay was involved in grey area activity. Basically, HOGAN said an eBay affiliate representative told him that the affiliate program was a buffer for eBay. An affiliate could participate in activity that eBay clearly could not do and eBay could say, "That is not us, it is our affiliates, we will tell them to stop." HOGAN indicated that people are out there openly



Continuation of FD-302 of SHAWN DEAN HOGAN, On 06/18/2007, Page 7

[REDACTED]

talking about ways to use various techniques including cloaking redirects, cookie-stuffing, etc., and trying to figure out how to do it. The people who are not talking about it are most likely doing it.

When asked by agents what should happen to him in regards to the fraudulent activity involving his eBay affiliate account, HOGAN stated he thought there should be consequences and he would willingly give back the money.

He believed that eBay continued its affiliate program because for every \$1 million eBay earned in purchases from the affiliate program, those customers would make eBay \$8 million over time as repeat customers.

HOGAN advised the name of the script is ebay\_filter.php. The script resides on his servers. He might have an old version on one of his computers at his residence but he doubted it. He advised the 1x1 pixel directs to his sever to the code on his server.

He stated he has ten Dell Blade servers that he believed had two 72 GB hard drives each; two Apple X servers which are both in use with three 40 GB hard drives; and two Cobalt servers with a 20 GB and 40 GB hard drive. He does not make any back-ups. Each 72 GB hard drive is a mirror image of the other drive and all of the drives are redundant. The full script that controls the 1x1 pixel is on the blade servers. The 1x1 pixel refers back to his servers, he thought named www.ads.digitalpoint.com. HOGAN advised that each ad has a series of numeric numbers. He indicated that his servers are physically located at SIMPLENET which is in downtown San Diego on Broadway in the NBC building. When asked about NetHere, he advised that for awhile his servers were physically located at NetHere on Voltaire Street but then he outgrew their small building and was moved to NetHere's data center at SimpleNet. His service is billed through NetHere.

In the past year, HOGAN tried to keep the Internet Marketing people at length. He stopped attending the search engine conferences. He said he made outside recommendations to eBay to stop their affiliate program. At one point, he told CHRISTINE KIM that he could help drive traffic to eBay for 1% of what eBay was paying out in the affiliate program. He reiterated that it was not about the money for him, but the intellectual challenge.



Continuation of FD-302 of SHAWN DEAN HOGAN, On 06/18/2007, Page 8

HOGAN reiterated that he would be happy to take responsibility. He knew what he was doing. He also gave the location of the script on his server as /home/php/ebay-filter.php or some variation of that. He said there would only be three files or so in that folder.

HOGAN was asked specifically about eBay revenue. He advised that he banks with Bank of America and his main account number is 2464108914. He further advised that all of the money from Commission Junction for his eBay revenue is direct deposited into a sub-account of that main account. He indicated that his 2007 Hummer H2 was paid for by insurance money received from his first Hummer which was stolen. He bought his first Hummer before he ever joined the eBay Affiliate program. In addition, he said his first property was bought long before he became involved in Internet marketing. He believed he bought the second property before his eBay numbers were big. He admitted that he was in the process of building a home on the second property. He also said he makes about \$1 million of legitimate income on his ISP accounting software.

HOGAN signed a Consent to Search form giving Agents consent to search his vehicles.

HOGAN also signed a Consent to Search form giving Agents permission to take an image of his Dell Blade servers from the co-location facility SimpleNet. HOGAN agreed to take Agents to the co-location facility SimpleNet, let them in, and assist them in obtaining this drive.

After completion of the execution of the search warrant at HOGAN's residence, SAs Adams and Walbridge followed HOGAN, who was driving his own vehicle, to SimpleNet located at 225 Broadway, San Diego, California. SimpleNet is the facility where his servers for Digital Point Solutions are located. HOGAN consented to Agents to searching his servers. Information Technology Specialist Tim Hamon of the FBI, met the Agents and HOGAN outside the building.

At approximately 11:00 a.m., pursuant to the consent to search signed by HOGAN in regard to his servers, HOGAN let the Agents and HAMON into SimpleNet, signed SimpleNet's entry log, and entered his code and scanned his finger for entry into the data center. HOGAN showed the Agents and HAMON his servers. HOGAN advised it would be acceptable for one drive to be pulled out and provided for imaging. This was documented on the Consent to Search signed by HOGAN.



FD-941 (2-26-01)

**CONSENT TO SEARCH COMPUTER(S)**

I, Shawn Dean Hagan, have been asked by Special Agents of the Federal Bureau of Investigation (FBI) to permit a complete search by the FBI or its designees of any and all computers, any electronic and/or optical data storage and/or retrieval system or medium, and any related computer peripherals, described below:

model #  
Seagate ST3146854LC 3KN1HXX  
 CPU Make, Model & Serial Number (if available)  
146 GB.  
 Storage or Retrieval Media, Computer Peripherals

and located at Simple Net, 225 West Broadway, Ste 1300, San Diego, CA, which I own, possess, control, and/or have access to, for any evidence of a crime or other violation of the law. The required passwords, logins, and/or specific directions for computer entry are as follows: N/A

I have been advised of my right to refuse to consent to this search, and I give permission for this search, freely and voluntarily, and not as the result of threats or promises of any kind.

I authorize those Agents to take any evidence discovered during this search, together with the medium in/on which it is stored, and any associated data, hardware, software and computer peripherals.

6/18/2007  
 Date

6/18/2007  
 Date

[Signature]  
 Signature

[Signature] SA Melanio Adams  
 Signature of Witness

SA Todd Walbridge  
 Printed Full Name of Witness

San Diego, CA  
 Location





DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

CONSENT TO SEARCH

1. I have been asked by Special Agents of the Federal Bureau of Investigation to permit a complete search of:

(Describe the person(s), place(s), or thing(s) to be searched.)

8E18752 California License Plate

2007 Hummer H2 56RGN 22U27H100512

2. I have been advised of my right to refuse consent.  
3. I give this permission voluntarily.  
4. I authorize these agents to take any items which they determine may be related to their investigation.

6/18/2007  
Date

[Signature]  
Signature

Witness

Brian C. Hill  
Special Agent in Charge



This is to certify that on 6/18/2007 at 8465 Reparto Rd, San Diego, CA  
Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice, conducted a  
search of Hummer H2 California license Plate 8E1K752  
I certify that nothing was removed from my custody by Special Agents of the Federal Bureau of  
Investigation, U. S. Department of Justice.

(Signed) \_\_\_\_\_

Witnessed:

\_\_\_\_\_

Special Agent

Federal Bureau of Investigation

U. S. Department of Justice

\_\_\_\_\_

Special Agent

Federal Bureau of Investigation

U. S. Department of Justice